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Senate Meeting, March 23, 2016

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Academic Senate Minutes

Wednesday, March 23, 2016

(Approved)

Call to Order

Senator Kalter called the meeting to order.

Roll Call

Senator Lonbom called the roll and declared a quorum.

Chairperson's Remarks

Senator Kalter: Good evening everyone. Just a couple of things tonight before we get started for chairperson's remarks. We have sent out the announcement for the shared governance sessions for the new Vice President of Student Affairs. The next one is 10:45 tomorrow morning and then there is another one at 10:45 on Wednesday next week. Then there are also open forums for the candidates at 2:00 p.m. tomorrow and next Wednesday. So I hope many of you will be able to attend either one or both of those interviews. As the year starts to draw to a close, the Senate agenda always sees a lot of activity before we break for the summer. Some of the items on our agenda tonight have more time pressure than others, including the two action items, the Intellectual Property Policy and the Nursing College bylaws. So with that in mind, we will be observing some time limits on our discussion, if we need to, including on the discussion on the Intellectual Property Policy. The consideration of that one is going to carry over to the next two meetings so that we do a thorough vetting of that complex, wide reaching policy. We are going to end the meeting tonight by 8:30 so that the Faculty Caucus can have the full hour or more to start polishing off its year's business. So we will see where we are in the agenda and if necessary, we will skip some the lower priority items. One other thing that I just remembered to add. For those of you who don't already know, the northern universities, such as NEIU and a couple of others are doing a teach-in and march on April 1st, for those of you who are interested in attending. I think Senator Alcorn you had a couple of additional pieces of information about that.

Senator Alcorn: Not so much that as just the Chicago Tribune just before 7:00 tonight released a statement that the Chicago Teachers Union has now approved a walkout for CPS on April 1st.

Senator Kalter: I guess I didn't say it directly, but this is about the budget and trying to get the budget impasse to come to an end. So that's it for my comments. Thank you, Senator Alcorn and I would be happy to take any questions.

Student Body President's Remarks

Senator Powers: Good evening. Update, Diversity Week will be starting next Monday. It will be going through Friday. Please let your students know to check out our website and our Facebook page to find out when the events are and the details of those events. Voting for the student elections will be starting on March 29th and the last day to vote will be March 30th and voting closes at 3:00 p.m. So please let your students know, during your classes, to go out and vote. Very simple. All you have to do is log on to MyIlstu and there will be a big banner saying student elections, so hopefully we will get a good turnout for voting with the students. I will be attending the Illinois Board of Higher Education Student Advisory Committee meeting April 1st going until April 2nd. We will be learning about lobbying and kind of get some tips for the upcoming lobby day. That leads into my next point. SGA is planning on to do possibly two lobby days, one before April 20th, the state lobby day. So we are looking at maybe April 6th, 7th, or 8th and trying to figure out the best date. And with that, I yield for questions.

Senator Kalter: Are there any questions for Senator Powers? Mine is not so much a question as a comment. The night of April 6th is a Senate meeting, just so when you are doing your scheduling there.

Senator Powers: We will make it back in time.

Administrators' Remarks

• *President Larry Dietz*

Senator Dietz: Thank you very much. I first of all want to say thanks to the University Programming Board and the Student Government for funding an event last night called Dietziversary and I didn't know what that was until I attended. It was very, very thoughtful and touching kind of documentation that I have been here for two years. Yesterday, about noon, started my third year and I just wanted to say thanks to the students who planned that and for the event. I really appreciated it and appreciate the support of this group over the last couple years, this last year in particular. It has been challenging, but I really get energized by being around this group of talented folks advocating for the university. So thanks for your support and onward and upward as far as I am concerned. Appreciate that. Senator Kalter already talked a little bit about the Vice President for Student Affairs search. We have the second candidate arriving tonight. We will be interviewing tomorrow and the last candidate comes in next week. Our goal is to have collected all the evaluation information and have all of the tabulation done so hopefully an offer can be made sometime the week of April 5th. So that is our kind of timeline on that. The goal was to have a full complement of permanent vice presidents by the end of the academic year and we are on track to do that. In terms of budget, not a lot new. On the 2nd of April, there is a budget planning meeting with the Board of Trustees in Chicago that I will be attending along with the other vice presidents and some of our cabinet members talking primarily about budget strategy and so forth. On the 6th and also on the 12th of April, it was identified those two dates as potential meetings with legislatures by university presidents. So we are trying to figure out those dates and the logistics of that. On the 14th of April, I will be testifying before the Senate Appropriations Committee. So April will be very busy for all of that. Then, even though we don't have any news about the budget, there have been lots of bills proposed recently and we are tracking those. Jonathan Lackland is doing a great job with that. He is the Director of State Relations. Some of those have been dealing with admissions issues and so forth. For the most part, institutions are playing a neutral role, but doing a lot of behind the scenes kind of work with the legislative liaison staff to derail some of those bills, not going forward, and making the appropriate changes to the ones we would like to see go forward. So stay tuned I guess is the watch word on that and I yield for questions.

Senator Kalter: Are there questions for Senator Dietz?

Senator Alcorn: I have a question that is by way of information for the full Senate to keep this on everybody's radar. I would like to talk briefly about the state of the facilities in the College of Fine Arts. As you know, Senator Dietz, the CFA facilities are in truly dire straits literally falling apart around us. Right now in particular, we are dealing with plumbing issues, with a plumbing system that is so old that it is not much of an exaggeration to say that we have pipes bursting just about every day. We have lost a harpsichord. We have sustained serious damage to the recital hall. Just last week, the prop shop sustained significant loss. The Provost's Office and Facilities has been working diligently and with great perseverance to find solutions, but can you update us a little bit on what's happening in the plans for continuing to deal with this.

President Dietz: I appreciate that question and unfortunately I don't have very good news because it is all really caught up in this budget impasse. Not only is there not agreement on an operating budget, but a capital budget is really far behind in terms of even having thoughts about capital budget. It is particularly frustrating that project has been approved and as we would say, it is shovel ready. All of the planning has been done and we are ready to go and every day that we don't have progress on a new facility, there is another day that the cost of steel goes up or we have breaks like this that unfortunately costs us money out of the current budget to fix. The good result of that will be a new building. Until that happens, we are just going to have to do band aid kinds of things, but to put it into perspective, my understanding is that two things happened over there. One was someone left on a faucet. That can happen in a new or an old building, so that is unfortunate, but the other thing is that the pipes are so old over that once we put in new piping on a break, sometimes it is 10 or 15 feet down the pipe that another leak will start because it will have additional pressure on the old pipe that the new pipe can handle and the old pipe can't. So if we had a new building on that, that new building, we had \$3.8 million to replace plumbing, electrical and mechanical systems in Centennial East. Unfortunately, we don't have any of that new

money. So we will continue to work with the college and try to help out, but it is really kind of a band aid approach I'm afraid.

Senator Kalter: Further questions. I will just say congratulations on Dietziversary. It's has been a pleasure working with you for the last two years.

Provost Janet Krejci - Absent

Senator Kalter: We don't have other administrators here partly because of the vice presidential searches. So two of the three vice presidents have sent comments and I will read those. I will start with Provost Krejci's. Just a reminder that the Academic Affairs budget presentations take place on the mornings of March 29 and 30. That is next Tuesday and Wednesday. The presentation schedule has been published in the Report and also is available on the Provost's website. A couple of congratulations. A big congratulation and thank you to Stacey Hardin, Mayuko Nakamura, Stacy Jones-Bock, Amee Adkins and all others involved with last week's Culturally Responsive Campus Community. It was an incredible event and will continue with a larger meeting in the Fall. A big thank you, too, to everyone involved with the publication of the recent issue of the Redbird Scholar! This is a fabulous publication highlighting our stellar teacher scholars! Thanks to Research & Graduate Studies and University Marketing for a phenomenal job. And then she gives us an enrollment admissions update. For the numbers as of Monday, the 21st, first time in college fall 2016 enrollment: Applications slightly below compared to the fall of last year. FTIC Enrollment Deposits are down 9% from fall 2015, but actual admits are up by 30 students. FTIC, in other words, first time in college. Transfers for fall 2016: Applications are down slightly but admits are up by 117 or 7%. ACT and GPA remain strong and graduate admits are up by 50 or 7%. So that is the Provost's report and since we can't take any questions, I will just move on the Senator Alt's report.

Vice President of Finance and Planning Greg Alt-Absent

Senator Kalter: Brace yourself for some of the Senate bills you are about to hear about because they are loopy, in my opinion. He says:

"I will be meeting with a Vice President for Student Affairs candidate Wednesday night and therefore will be absent from the Academic Senate meeting. Please accept the following written comments:

1. With no apparent movement on the budget the past few weeks, I do not have any new information to provide in addition to President Dietz's comments. With the House in recess until April, it appears unlikely there will be a resolution this month.
2. I do want to make the Senate aware of various proposed legislation still in committee, that if passed could have a further negative impact on the budget situation.

Senate Bill 2941 – Amends various Acts relating to the governance of public universities and community colleges. It provides that a public university may not prohibit a student from registering for classes or refuse to issue a student transcript solely because the student owes the university money. This would significantly impair our ability to collect tuition and fees in a timely manner as students would be allowed to be much more delinquent with payments.

Senate Bill 3118 – Creates the Tuition Reduction Act. Beginning with the FY17 academic year, it requires that each public university reimburse its full-time resident undergraduate students a portion of the tuition charged in the form of a grant applied directly to a student's financial aid account. The grant awards are based on an aggregate amount of 50% of any increase in the current year appropriation over the prior year.

Senate Bill 2170 – Would create the Public University Administrative Cost Decrease Act. It would provide that a Board of a public university may not enact a budget with tuition and fee increases above the FY16 level until

after the Auditor General has verified a cost certification submitted by the university showing a decrease of administrative cost of 25%.

Of these bills, the first two are awaiting assignment and the third has been assigned to the Higher Education Committee.”

That is the legislative update. I feel like taking questions, but I won't. We will move on to our action items. Remember who your senators and representatives are and where their addresses and phone numbers may lie.

- ***Vice President of Student Affairs Brent Paterson –Absent***

Action Items:

02.23.16.01 Minors Policy (Senator Daddario/Academic Affairs Committee)

Senator Kalter: We will start with our first action item, the Minors Policy and I will turn to Senator Daddario for that.

Senator Daddario: That is a fun act to follow. Good evening everybody. Since last we have looked at the Minors Policy, this policy has been through the legal counsel. It has been part of a conversation with CTE. It has been turned over to the Academic Affairs Committee where we talked about all of the points that were raised at our last Senate meeting in regards to this policy, obviously, and back to the Exec Committee and all of that conversation has boiled down a few precise changes that we believe address the issues that were brought up last time. I attempted in the copy of the document that you have to specify where those changes have taken place and I just for good practice wanted to point them out here. The ones that pertain most obviously to our big conversation show up first in B.6, the addition of the word also in the final sentence. “Faculty, staff and students working minors or supervising such work in schools, clinics, hospitals and other external agencies are also expected to conform to requirements of those institutions.” Again, in point B.8, the second paragraph, “Faculty, staff and students working with minors or supervising such work in schools, clinics, hospitals and other external agencies are also expected to conform to the requirements of those institutions regarding background checks.” Then down in B.15, a crucial word change. The last time we saw this, it read “All university agents, representatives, including, but not limited to employees, students and volunteers are required to cooperate in any internal or external investigation.” That word has been changed to “expected.” These are the changes.

Motion: By Senator Daddario to put the motion on the floor that the policy be accepted as has been revised.

Senator Kalter: Thank you. Is there any debate on this policy?

Senator Ellerton: One of my concerns is the implication in the document that faculty and staff working with minors are only required to have one background check initially and then that will hold with the university. They are also expected to conform with other institutions which may or may not require more frequent background checks. But my concern is the university is basically saying that we are comfortable with having only one and I would appreciate comments or legal advice on that.

Senator Kalter: Wendy, would you like to come to the table?

Wendy Smith, Associate University Counsel: There is no legal requirement for a certain number of background checks and so the way I see it right now we are not doing any. But we have to start somewhere and it makes sense, based on the committee's comments and the work they have done over the past four years, that we start with one check and put a requirement that people report if they have a conviction after that. But there is no legal requirement to do one every... more than once for employees and as we have talked about in the past, the Minors Policy is not based on specific legal requirements. It is based on a liability and a risk issue in providing a safe environment for minors on our campus and interacting with us through the university.

Senator Kalter: Thank you. Is there further debate?

Senator Ellerton: I had another question that links with that one and that is where faculty and staff are already working in schools and conforming to what schools require at the moment, what interim arrangements would there be in order to get background checks as required by the university? Because some have background checks completed. Some do not.

Ms. Smith: According to the policy, once it was implemented, any program that was connected to the university would go through the Minors Activity Compliance Committee and if the compliance committee decided that there was no exception for the background check requirement, the background check would be required through the university even if they had a requirement to also have it in the external agency, which is reflected in the word “also.”

Senator Kalter: Just to add a little bit to that, we talked about how after this policy is passed, it would be important for the administration to contact all of the chairs and directors of all of the departments to make sure that they know where the programs that involve minors are so that they can make sure through the MACC that everybody is covered or that everybody has an exception, essentially. Further debate?

Senator Ellerton: Could I seek slightly more clarification on the point about current staff and faculty working with minors in schools, for example, and that is it will take time to go through the appropriate procedures and presumably there will be time given for that because these things can’t happen instantly even getting the background checks. So I wondered whether that is automatically covered in the wording or the expectations of the policy.

Ms. Smith: I believe that that is covered in the...once it is passed by the Senate, I believe at that point all of the plans will be made to get it started and then President Dietz will put it into active policy when we are ready to get it started. We will have all of the training done and everything done. So it is passed by the Senate in its form. We get all of the back work done. The employees ready to run the program do the training, do the presentations, have the MACC appointed and then President Dietz puts the policy into action. So we are not going to put a requirement on people before we are ready to help them meet that requirement.

Senator Kalter: That is a good reminder to everybody. Once the Senate passes anything, it goes to the president’s desk to be signed. So it doesn’t actually become a policy, or what have you, until that has occurred. So what you are saying is that if there is something where you need to put procedures and steps into place, that signature can be not the next day but the next week or the next month, depending on what needs to happen.

Ms. Smith: Right. And we have implemented a widespread background check for lab schools. We have some background in doing that quickly, easily without a lot of output to the people having to do it, but the committee and getting a sense of what activities are happening and what people would have to apply, it is going to take a little bit of time.

Senator Kalter: Is there further debate? Senator Ellerton, at some point I am going to have to ask you which side you are on because debate is generally defined as I am for passage of this policy or against it, but go ahead.

Senator Ellerton: I must admit still to feel somewhat uncomfortable to say well we haven’t had background checks in the past, we, therefore, are going to put one in place, but there will be just one and we will look down the line to see if we need to make this every five years or something like that. I am just a little uncomfortable where students have to have an annual check. They come under different policy and so if they are working in schools with minors, they have to have a current annual check at their expense. I don’t know where the others have entered into the debate and may feel comfortable with having just the single check. But I remain somewhat uncomfortable with only having one and leaving it down the track.

Ms. Smith: It is very consistent with our employment policy. Any employee that is in a security sensitive position has one background check and actually some of the student policies are going to that one check by the university, although each school that they go to might have a separate check because really a background check legally is good for 30 days and then it is expired. So you really, in order to have a continuing obligation for your employees to report convictions, that is really the standard and the best practice in a university setting for universities that require background checks. I have even run into that require them at a certain incremental time. They might or they might have an additional requirement, but I think talking about going from none to starting with one is a good incremental start versus putting out a yearly requirement. The cost and the finances of that alone might be cost prohibitive. When you get one done, and most likely if something is a huge concern, it is going to be more public once somebody is already here.

Senator Kalter: Before I go to Senator Stewart and Senator McHale, I will just say that in the past we have put in place policies and then put on the vote a condition of review a little bit sooner than the usual five years. So if somebody wanted to offer that as a friendly amendment to review the policy again in two years or three years that would be within bounds.

Senator Stewart: I think we kind of touched on this in the CTE meeting that you get the one criminal background check and a faculty member isn't going to be going back home and coming and going like students do, but if a faculty member is arrested, goes to trial and is convicted of a crime, it is going to be a little difficult to keep it quiet, so there will be a bounce back in terms of that is going to be known. So I am not that uncomfortable with that.

Ms. Smith: Especially in regards to the more serious crimes that we would be concerned about.

Senator McHale: It was just a comment with respect to Senator Ellerton. It seems that this is necessary, yet maybe not sufficient and required by law I believe. We were compelled to pass...pardon me. We wanted to get ready for any emergency situation that would come up, so to suggest that those faculty members need to have one security doesn't preclude a background check in the future.

Senator Kalter: Thank you. Further debate? Seeing none.

The Minors Policy in this draft was unanimously approved.

Ms. Smith: Thank you.

Senator Kalter: Thank you. Thanks for all of your work on this and for everybody's work and for CTE for reviewing that recently. Wonderful.

02.29.16.01 Milner Bylaws-Markup (Senator Crowley/Rules Committee)

02.29.16.02 Milner Bylaws-Clean Copy

Senator Kalter: We move on then to the Milner College Bylaws and Senator Crowley.

Senator Crowley: Thank you so much. It is my pleasure to present to you the revised copy of the Milner Library Council Bylaws. They have been unanimously approved by the Rules Committee. You have seen your markup and your clean copy and your documents for our meeting this evening and we have with us representative members of the library staff who would be here to answer any lingering questions.

Senator Kalter: Thank you. Did I hear you put a motion on the floor?

Senator Crowley: It was unanimously approved by our committee, Chairperson Kalter. So tell me do I need to make a motion.

Senator Kalter: Just formally say on behalf the Rules Committee, I'd like to put this on the floor.

Motion: By Senator Crowley to approve the Milner Library Bylaws.

Senator Kalter: Wonderful. Thank you. Is there any debate about these bylaws?

The motion was unanimously approved.

Senator Kalter: Wonderful. We have new bylaws for Milner. Congratulations! This is I think our third of four, or fourth of fifth, set of bylaws for this year. So, so far we are batting 1000. I am still trying to remind myself of various parts of Robert's Rules of Order like calling the question and all of that. So hopefully I did all that properly.

Information Items:

03.03.16.02 Intellectual Property Policy (Faculty Affairs Committee)

Senator Kalter: Let's go on to our information items. We are going to start with the Intellectual Property Policy. Like I said before, if this goes for a long time, we are going to limit the discussion, but we do have some time. Let me give a little bit of a preamble here. So what you see before you is a fairly major revision of the Intellectual Property Policy. On any campus in the U.S. this is one of the most complex policies in the mix. Tonight, the experts were unable to be with us, so rather than having the traditional question and answer that we usually do in our information items, we will just start gathering in questions, putting queries out on the floor so that when Cory Abernethy and Alice McGinnis can be with us in two weeks, they will be able to incorporate answers to those questions into their initial outline of information. Like I said, if we don't make it through the whole policy, we will have an opportunity again in two weeks. You may have noticed in your email that we sent out a call for comment to the campus. We got about five or six responses to that. One of those was me walking down the hallway to a colleague who had mentioned it to me a year ago, so about five or six of those. We got about two or three student comments and two or three faculty comments as I remember in all. So let's start by looking just at the Overview and Section 1. The Overview is obviously an overview and Section 1 are the objectives of the policy. Does anybody have any comments or questions about any of those areas?

If not, I will move to Section 2, which is actually a fairly long section. It's Key Terms and goes part of page 1, page 2, page 3 and actually part of page 4. So we have definitions there for intellectual property, creator, patent, copyright proceeds, university employee, substantial use of university resources, traditional academic copyrightable works, student theses and dissertations, student entrepreneurial activities, student class projects, employee consulting agreements, and tangible property. Altogether, we got about six comments about this section, so I can start with the two student questions. I think I sent this to some of the students on the Executive Committee, but essentially there was one student who felt that 2.11 was murky when it came to IP developed with a third party. That is the student class project section. We are just putting that out on the floor that that student felt that that section of the policy... What he said was, "I think the policy draft is good except it gets a little murky when it comes to IP development with a third party. It almost makes it seem like the student won't receive the IP rights if they receive help or resources from another party. I just think those areas need to be a little clearer."

Senator Hoelscher: I did have one student. We have a particular program that offers third party help through our Means Center and I did have one student express concern that if he accepted the help, he was putting himself in jeopardy. So just to back up what you said that there appears to be a little bit of concern there.

Senator Stewart: One of the things that we talked about in the Faculty Affairs meeting on this was that usually if there is third party helping to fund the project, there is a contract that is created and that will spell out who gets what if this is marketed and it wasn't felt necessary to put that in the policy because that is a contractual arrangement that is going to be made by the third party.

Senator Kalter: I will read the next comment. We can kind of... This is a very long comment, but I think it is worth reading because I think one of the interesting things was the perception of the policy wasn't as important as the actual facts in the policy. The person wrote, and this is quite long, so please forgive me, but it says,

"After reading the old policy and comparing the new policy, I cannot help but think that the change would be a poor one. The policy change is a greedy one and will discourage student entrepreneurship. Students pay plenty to have the opportunity to pick the brains of their professors and use school equipment. I have looked into building websites and have asked the help of faculty members and I have to say this policy change is the first indication that the university does not want their students creating. ISU has done a wonderful job of providing me guidance and resources and I think this policy change contradicts all that. This also contradicts several on campus groups, for example would any interaction with the Means Center accelerator program requires students to forfeit revenue? What about the hack-athon, a 36 hour lock in located in Milner that has students build apps and pitch themselves to a team of judges? Can a university really host such services and also entitle themselves to a percentage of ownership? To me that seems underhanded. Also, the IT department gives its students free access to virtual studio. If I build an app on that software, does it now belong in part to my school? I certainly understand that going to ISU while building a company gives students huge advantages such as subject experts, lab, free access to expensive software programs, but does using these things go beyond what I pay in tuition? I pay a lot of money for the opportunity to learn from faculty and use these facilities. Pursuing these opportunities should not entitle the university to my inventions. It should just make the school proud that there are students actively creating their own education and making jobs or money for themselves."

I am not going to read the final paragraph, but that is sort of the tenor of it was that there was a perception that it was actually shutting down entrepreneurship rather than trying to bolster it. I know that Senator Hoelscher felt that it was not doing that. So I think the main point there was trying to figure out whether the wording of the policy puts that across clearly or not.

Senator Stewart: Students who create things in their classes own what they create. This is in the policy. The only time the university gets involved and gets a cut in the market is if the student or the faculty member goes to the university and requests help to get a patent. Patents are expensive and it is a long and legal process and the university is willing to help and invest money if they think it is a marketable thing. That is the only time that there is going to be a split is if the student or the faculty member requests that the university help with a patent.

Senator Hoelscher: That pretty much mirrors the response I had to the student, but it does concern me that the perception is this and I would like to see, if we can, if it is easy to clarify, I know, having been a part of this formation, I know that is not our intent. I know that that is not the university's intent, but it probably would be good to look at and try to clarify so that there is no doubt.

Senator Ellerton: I was on a different point.

Senator Kalter: A different number?

Senator Ellerton: Yeah.

Senator Kalter: Let's hold off on that. Anybody else? I have a couple of other things on Section 2, but is there anybody else who has anything on Section 2? I'll just read sort of briefly. There was one faculty question regarding whether websites would be included in traditional copyrightables and also whether it makes a difference whether the site is hosted on site or off site. In other words, if ISU hosts it versus having it on some other platform. There was a subquestion there about what are the liability issues for faculty with offsite websites when they post other people's copyrightables under their interpretation of fair use. I think that is not necessarily for this policy, but it is an interesting question about how much or how little are they putting themselves at risk. A couple of the other questions had to do with 2.5 Proceeds, whether it needs to be made more clear that sort of independent production of various things the university doesn't get ownership of. In 2.6, we don't have

employees called academic professionals or service professionals, so whether those definitions might need a little bit of tweaking or tightening up and then finally there was a question that came up related to the substantial use of university resources. Is it now clear enough there and in the whole policy that if you get an internal research grant, they are called URGs around here, that that is not considered substantial use of university resources. That is just common, sort of the same as salary, right? So those were the questions that I was able to collect about Section 2. Was there anything else before we move to Senator Ellerton?

Senator Crowley: I would just like to ask. Have we examined peer institutions' documentation or procedures or percentages or policy related to this content?

Senator Kalter: I am fairly certain that that has happened. Senator Stewart is saying yes. Senator Baur is nodding and Senator Dyck is nodding. They were all nodding on the Faculty Affairs Committee.

Senator Stewart: One of the reasons for doing this is that not too long ago a faculty member at ISU collaborated with a faculty member at another university and we didn't have a policy to protect that faculty member's rights and the university's rights and the other university got 100% of the money. Of course the faculty member over there got a cut of it and the university did and ISU got nothing. That is one of the reasons for doing the rewrite to protect faculty, students and university from that happening again.

Senator Kalter: Thank you. That is very helpful. Let's move on to, if there is nothing else on Section 2, let's move on to Section 3. Was that the section you wanted to ask about? Oh, it was in 2. Go ahead.

Senator Ellerton: In 2.8, it is rather a question of clarity that I would like to raise. It states in the third line and fourth line, "where the creator rather than the institution determines the subject matter, the intellectual approach and direction, etc. Examples include" and to me it is not clear there because it starts with class notes and syllabi, whether that examples include refers to the institution determining the subject matter or the author. I feel there is a potential muddiness there. I think I know what was intended, namely if the faculty member has created class notes and syllabi, that is copyrightable, but I think one can read otherwise into that. So I would appreciate some clarification of that. The reason I ask is at a different university that I was at because I was employed by the university, what I wrote as part of being an academic, the copyright was owned by the university not by me. I do want to make sure that the copyright can stay with the author for academic work.

Senator Lim: If I could go back to the student class project. How much formality, the question I have is how much formality do students need to have from one another in terms of the rights to a class project because this past semester, I have a class project that students did for an external organization and they are willing to now go back and say we are willing to pay some money for this. But some of the students have already graduated. Some are not willing to work on it anymore. Some others are willing to. So the question is how do they go back and get permission from the other students and so forth.

Senator Kalter: Thank you. I think I had a question further down that goes into the question of whether there is such a thing as joint ownership because often students like you are saying are working on teams and so not only does the ownership among them become a question. But then if there is a third party involved or if there is a patent involved, who owns the rights is an interesting question. So thank you. So student class projects, how much formality and especially when there is an external organization involved and how do you track down people who have already graduated. Okay, thanks.

Senator Stewart: Members of the committee, correct me if I am wrong, but I think we did discuss this and what Legal said was that if students decide they want to market something and it is done with a group, they should hire a lawyer and create a contract. The ball is really in their court and their decision to make. The university has nothing to do with it and they own what they created. Is that right?

Senator Kalter: John, I wasn't sure whether you wanted to say anything about that or not. We are kind of trying to gather in questions as opposed to answering them, but go ahead.

Senator Baur: I would hate to give an answer to that without my attorney's counsel. Is that taking the fifth? Because it gets murky depending on exactly who's involved and whether there is faculty involved or not. So if it is only within the students, then that's right. It is the students' issue then, but that's my interpretation.

Ms. Smith: I am going to defer that to Alice. She has worked on this extremely...

Senator Baur: This is why I am trying not to answer any questions.

Senator Kalter: Yes, I think it has been stated already that it is one thing when it is just the students and it is clear that they did it. It is another thing when there is a third party involved, like a business, and another thing when there is a patent, so it gets murkier and murkier, especially if those three things are happening together. Anything else on Section 2 since it looked like that was all still about Section 2? Section 3 is about ownership. This talks about patentable research, copyrightable works, university copyright rights, tangible research property, intellectual property clarification. Any questions or comments about that section?

Senator Chebolu: So here it says the university will normally own all inventions created by the university employees within the scope of their employment. So I am thinking this needs some clarification in a situation where a faculty member who is on a nine-month contract goes and does research overseas in the summer and the outcome of the research or invention that happens during that period when he or she is not in the summer supported by an external grant, what would happen in that situation?

Senator Kalter: Thank you. That is a very interesting question. That ought to be clarified. John, do you already...

Senator Baur: I was just going to say we'll defer to when we have the General Counsel.

Senator Kalter: Yes, thank you. Anything else anybody sees about Section 3? Again there were a lot of comments. I will just read them off really quickly. We are going to find out whether or not it is required by state law that the university actually take ownership of these or not. That may not answer the question of whether the university will take ownership because there are obviously two questions there. But I think Senator Winger has said, if the state is only paying 18% of our bills, can they own 100% of our intellectual property? So that is one question, but also you might have read an AAUP advisory that was created a couple of summers ago. They actually warn universities around the country not to take on too much ownership of intellectual property because it can put you in budgetary sinkholes as much as it can create revenue. So that I think that is an important thing to clarify whether we are actually bound by state laws or not. I already brought up the joint ownership thing. There are a couple of things about definition and whether it is murky or not. For example, in 3.2.1 "is conducted as a university activity." Is that clear what that means since a lot of the things we do are university activities but obviously not copyrightable works. To what extent would faculty authors of traditional copyrightable works have to negotiate with publishers to make sure that the university owns a copy or has the ability to use a copy, so like ISURed and the sort of open access kind of question. Then, Senator Daddario, the member of the faculty in my department, and I think a lot of other people, for 3.2.2, I call this "the big online question." Do you want to articulate that Senator Daddario?

Senator Daddario: This is a question not about what's covered in the policy, but what blind spots the policy has given the ever growing changes to technology in the field. One of those blind spots is the issue of the intellectual property right of online courses. Is that something that an individual who creates the course owns and can take with them if they were to go to a different university or is that something that the university owns, and what are the stakes of making a decision on either side of that?

Senator Kalter: Thank you. I think this is a particularly important question given that some of the things that are in the traditional copyrightables like syllabi, class plans, things like that, then when they move onto an online format does that somehow change their nature or do that stay as owned by the faculty member or not.

Senator Daddario: Yes and I think it was because of this point that we raised in Exec that this might be one of those policies where it is important to insert a sentence about revisiting the policy every year, every two years just because of the changes that go on in technology.

Senator Kalter: It also might be where, for example, if we offer a DART program where you are signing your copyright over after you take the DART or if you are getting a particular kind of URG where it is expected that that is more substantial than other URGs, that there is an explicit, separate, written contract so that you know very clearly what you are doing rather than saying oops five years later. I made this course and then I didn't know that it didn't belong to me anymore. So making sure there is clarity on that.

Senator Daddario: Yes, and imagine that in a couple of years somebody creates an open access software that allows anybody to create an online course and it is not controlled by the university and a professor of his or her own volition uses this open access software and creates this course that becomes popular. How would you govern that?

Senator Kalter: I am going to go to Senator Ellerton first because she had an interesting example in Exec about something related to that. I don't know if you remember that. At another university with traditional copyrightables where you and a team had published some books that...

Senator Ellerton: Yeah, thank you. I was going to refer back again to 2.8 and the inconsistency between the implication that course materials, class notes and syllabi are in fact traditional academic copyrightable materials and the almost conflict with now the university owning the copyright of the online course materials in Section 3.2.2. So there is a need to make sure that there is consistency between those two sections. The example that Senator Kalter was referring to was again at this other university, a colleague and I wrote several books that were used, were published by the university, but we wrote it in our own time, as employees of the university, but definitely in our own time. We do not have copyright of those and we cannot in fact even buy a copy of the books, let alone use the books or update them, so one of those books is still being used by this other university. We would dearly love to do something with that, but we have no copyright rights at all with them other than start from scratch. I think that is a conflict that I think we should try to avoid within what we have here if at all possible.

Senator Kalter: We just went over 20 minutes, so I am going to go to Senator Stewart and then I am going to wrap up and we can come back and start with 3 next time and go to 4 and 5.

Senator Stewart: I am not sure I understand the conflict because the way I am reading 2.2, it says that the university does not claim ownership of copyrightable works such as those defined in traditional academic copyright unless it is works for hire, something like that where you put in a grant for extra money to develop the course. And then traditionally, if I wrote an article and had it published in a journal that publisher owns the copyright. I give up copyright in order to get publication.

Senator Kalter: Let me clarify that last statement so that everybody can understand what is going on there. You actually do own the copyright when you write something, but as a condition often of publishing, we as professors, especially, well I guess it is everywhere, but in the Humanities, certainly, the journal asks us to sign our copyright completely over to them. So it is a voluntary surrender, but sort of not at the same time because it is a choice between getting tenure or promotion or a salary increase or what have you and not and getting published or not. Just one more comment about 3 and then we will close and that is if there is a dispute about interpretation of this whether or not the Academic Freedom, Ethics and Grievance Committee would be a place where people could appeal, at least for faculty, and then if so, is that something that should be written explicitly

into the policy so that people, if they get into a dispute with the IP committee or with the Associate Vice President for Research whether they have a right of appeal essentially. We are going to wrap that up. We will continue this as an information item next time and we will move on now to the Mennonite College of Nursing Bylaws.

03.07.16.01 Mennonite College of Nursing Bylaws-Markup (Senator Crowley/Rules Committee)

03.07.16.02 Mennonite College of Nursing Bylaws-Clean Copy

Senator Crowley: We have guests from Mennonite with us. Would you like to come forward because we are going to present the revised bylaws of Mennonite College of Nursing here tonight. Let me just summarize the major accomplishments of this revision. The revision is greatly summed up by the change in representation on committees, a further description of function of committees, and further description of procedures. Also, editorial changes that reflect current practice as well as grammatical and formatting changes. The Rules Committee unanimously approved these bylaws and we have guests here tonight for those of you who have questions about them.

Senator Kalter: Thank you and just as a reminder it is just an information item, so we are not moving anything yet. Do our guests have anything to add to any of that?

Heather Winfrey-Richman, MCN staff: No. Thank you for considering them.

Senator Dyck: I noticed a typo because I read through this very carefully and it was in Article I, Section 1.C, the second line. I am thinking the word should be the college council shall utilize its committees instead of ultizes.

Senator Crowley: So it is utilize rather than utilizes?

Senator Dyck: Rather than ultizes. It is just a typo.

Senator Crowley: Thank you very much.

Ms. Winfrey-Richman: The original draft of the document was space barred instead of using tabs, so we had to kind of convert a couple of copies to get it to a readable, editable copy.

Senator Kalter: Thank you. By the way, could you both state your names for the record so that we know who are guests are?

Charlene Aaron, MCN Council Chair: Certainly. I am Charlene Aaron and I am an assistant professor at Mennonite College of Nursing and I am the chair of our college council.

Ms. Winfrey-Richman: And I am Heather Winfrey-Richman and I am the Academic Special Project Manager in the college of nursing.

Senator Kalter: Wonderful. Thank you. Any further observations, questions, comments about the bylaws? If not, we will see these back in two weeks. Thank you very much.

03.02.16.01 Withdrawal Policy (Senator Daddario/Academic Affairs Committee)

Senator Kalter: We do have time to move on to our Withdrawal Policy as an information item.

Senator Daddario: Hello again. This policy is the consolidation of three policies into one. In the course of reviewing it, two major changes were made. One was that this Withdrawal Policy also when consolidating included some information about dismissal, but since dismissal and withdrawal are different and this policy only governs withdrawal, all reference to dismissal was taken out. The second one was more substantive I think which was that the language in the policy as adopted from its previous state seemed to put the student into a

corner at times. There was a power differential in the language that sort of made students the victim or have to hack their way through the process of withdrawing. So we, in the Academic Affairs Committee paid special attention to making the language assertive whenever possible to put the power back into the students' courts. Those changes I think are visible throughout and the brief preamble in the beginning is intended as sort of a key signature to hint that direction.

Senator Kalter: Are there questions or comments about this policy? Seeing none, just a little bit of background on this and then we will move to the next item. Senator Daddario mentioned that this was three policies folded into one. That actually happened about four years ago because of some changes in some laws, but the Senate had not reviewed those because of various things that were occurring with the Student Code and stuff. So we are just basically cleaning that up and then also the Academic Affairs Committee made some additional changes to the resulting one policy. Thank you very much.

03.07.16.03 Economic Interests Disclosure Policy (Senator Crowley/Rules Committee)

Senator Kalter: We will move onto the Economic Interests Disclosure Policy from Rules Committee and Senator Crowley.

Senator Crowley: This is another information item and in your packet is just a short policy here, Disclosure of Economics, 3.1.16. The biggest change in this policy is on the second page and it is the place in which failure to file by May 31, beginning with that sentence. It is now still failure to file is a big problem, obviously, but it is more accurately stating what exactly happens is really the big change in this and it was guided by Mr. Shane McCreery and our committee unanimously approved this change.

Senator Kalter: Mr. Shane McCreery, for those of you who don't know, is the Director of the Office of Equal Opportunity, Ethics and Access. So he reviewed this and helped the Rules Committee with the revision. Are there questions or comments about this? Alright, everybody is helping us along to adjourn before 8:30. So we will see this one also in a couple of weeks.

Committee Reports:

Senator Kalter: We move onto committee reports and we will start with Senator Daddario for Academic Affairs Committee.

Academic Affairs Committee

Senator Daddario: Academic Affairs Committee met this evening. Had a very short meeting. There are just a couple of things on our radar that we will be briefing you about maybe by the end of the year. One is regarding the AMALI survey, which is out circulating at the moment and the other is the Writing in the Discipline information collection that is going on and I believe also next time we will have an update about the Reggie Net Survey that went out last time. That is all we have to report.

Administrative Affairs and Budget Committee

Senator Hoelscher: The Administrative Affairs and Budget Committee did meet tonight and worked on the Academic Impact Fund. I think that we are very, very close to approval and passing that out of committee and bringing it to the Senate floor. We had an update on the Presidential Commentary. That is going very well. The numbers are in and we will be working on that in the next two weeks. We passed out of our committee the deans' evaluation forms. So we have reviewed them and approved all but the College of Education. We still have a little bit more work to do there. Adjourned at about 6:55.

Faculty Affairs and Budget Committee – no report

Planning and Finance Committee

Senator Marx: Planning and Finance met tonight to discuss two items. One is of course the Institutional Priorities Report which is due for an information item at our next meeting. We are scrambling to finish that and

hope to deliver it to Exec on Monday. The other item is the revision of the Fundraising Policy. We discussed that. We formed a subcommittee to address the revision of that and the subcommittee produced that and we discussed that our meeting tonight and we hope to finalize that as well.

Rules Committee

Senator Crowley: The Rules Committee met tonight and we started out our meeting with a brief look at our task list and we will be forwarding the status of our work in preparation for next year for our committee members next year to Cynthia. The biggest part of our meeting was continued discussion on 3.3.8, the AFEGC Policy and Procedures. We continued our discussion of all of the parts of this policy up to part C and we approved the forwarding of this policy up to part C out of our committee given some editorial changes that we will conduct before sending it forward. We still have part D waiting for our attention, but we are moving nicely toward making some really significant progress on this policy.

Senator Kalter: Are there questions for Senator Crowley? We have a lot of long policies that we are looking at this year. That is one of them and Intellectual Property is another one. So thank you very much and now it is time for communications. Any communications for the Senate?

Adjournment

Motion: By Senator Hoelscher, seconded by Dawson. The motion was unanimously approved.